



# California Fair Political Practices Commission

December 8, 1986

Steven L. Dorsey  
Assistant City Attorney  
City of Carson  
c/o Richards, Watson & Gershon  
330 South Hope Street, 38th Floor  
Los Angeles, CA 90071-1469

Re: Your Request for Advice on  
Behalf of Mayor Sylvia Muise  
Our File No. A-86-248

Dear Mr. Dorsey:

You requested formal written advice on behalf of Carson Mayor Sylvia Muise. At my request you provided clarifying information, which we received on September 24, October 27, and December 1, 1986, respectfully.

## QUESTION

You have asked generally about reporting obligations and potential disqualification issues arising from a catered reception held in honor of Mayor Muise's deceased husband following the memorial service.

## CONCLUSION

Mayor Muise is required to disclose the reception as a gift. She must list the various donors who have contributed \$50 or more in value, including the intermediary, Mr. Homan. Disqualification potentially could be required for a 12-month period as to decisions affecting Mr. Homan or any donor of \$250 or more.

## FACTS

Mayor Muise's husband passed away in mid-June. As is traditional, Mayor Muise and other family members planned for a reception following the memorial service to be held at the Mayor's home. Pot-luck refreshments were to be provided by attendees, while paper plates, etc., were to be provided by the Mayor.

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Arrangements for the memorial service were being coordinated by the Mayor's niece. After learning of Mr. Muise's death, the Director of Parks and Recreation for the City of Carson, Howard Homan, called the Mayor's niece to ask if there was anything he could do to assist the family. Upon learning of the planned pot-luck reception, Mr. Homan offered to coordinate a reception to be sponsored by local business interests, including a catering company, that had called him offering to help the family. The Mayor's niece agreed. Mr. Homan coordinated the reception; however, there was no line of authority and no one individual was in charge of making arrangements.

The decision on seating appears to have been made by Mr. Homan. Mr. Homan, the caterer, and Mayor Muise's niece all had a part in determining the menu. Most of the decisions on the food selections were made by the caterer and Mr. Homan. Mayor Muise's involvement with the food selection for the reception was limited to answering a casual question concerning whether the Mayor's husband enjoyed a particular food. She indicated that he did and the item was served, but the Mayor never requested nor approved its inclusion.

No individual determined who would be invited to the reception. An announcement was made at the conclusion of the memorial service on June 20th that the family home would be open and that the Mayor and her family would receive friends. The same announcement would have been made had a pot-luck reception been arranged.

Mr. Homan solicited various companies to contribute to the cost of the reception. Mr. Homan initiated the idea of a sponsored reception, and the decisions to request contributions and which companies to approach were his. The Mayor did not know which companies were paying for the reception until receiving a memo from Mr. Homan on July 3rd. His memo precipitated this request for advice. However, Mayor Muise was aware that the reception was being arranged as a catered affair at no cost to her or her family.

You have provided copies of correspondence from Mr. Homan to the various donors soliciting payment for their shares of the costs. They are attached hereto and incorporated by reference, as is an article from the South Bay edition of the Los Angeles Times (August 14, 1986, p. B-1) which you have had an opportunity to review and comment upon. That article contains additional information about the nature of the event. It also relates that the caterer is involved in catering functions for the city under a five-year contract which

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resulted in "close to \$1 million ... in the 12 months ending June 30", 1986.

The total cost of the reception was approximately \$2,200 and it involved four waiters serving 150 guests poached salmon, broccoli souffle, beef in a sauce, salads and pastries.

The caterer apparently only intended to donate a portion of his company's services, specifically a discount by way of providing the services "at cost." Others were asked by Mr. Homan to defray the actual costs of the services by contributing money to pay the caterer. Specifically, Western Waste and Watson Land Company were each asked to pay the sum of \$767.57, while the caterer's share was attributed as \$653.89. (See, attached correspondence from Mr. Homan to each donor.) Western Waste has the contract for residential trash collection in the City; Watson Land Company owns land which can be affected by City actions. Your inquiry has elicited statements from both Western Waste and Watson Land Company to the effect that neither expected its share to exceed \$200 to \$250 in amount.

Other potential donors who could help to defray the cost have been identified. This would reduce the proportionate payments by each donor. To date, only the caterer has actually made a payment and that was the full provision of the catering services. However, the caterer's intention was apparently to donate a substantially smaller sum. (See L.A. Times article.)

#### ANALYSIS

The Political Reform Act (the "Act")<sup>1/</sup> provides that gifts to public officials must be reported where appropriate. (Sections 82028 and 87207.) Gifts may become the basis for requiring officials to disqualify themselves from participation in decisions affecting the gift's donor or the agent of the donor. (Sections 82028, 87100 and 87103.) Reporting and disqualification are required even where gifts are made through an agent or intermediary. (Sections 87103(e) and 87210.)

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

A gift is made whenever something of value is received without equal or greater consideration having been given in return. (Section 82028.) The rules for valuation of gifts are set forth in Regulation 18726 et seq. The basic rule for valuation is fair market value. (Regulation 18726(a).) In this instance, the fair market value appears to be \$2,189.03, based upon Mr. Homan's letters. Mr. Homan acted as the agent or intermediary for the making of the gift.

The gift was to Mayor Muise and her family. Regulation 18726.2 governs the valuation of gifts to an official and family members. Pursuant to subsection (d) of the regulation, the full value of the gift of the catered reception is attributable to Mayor Muise.<sup>2/</sup>

The gift does not fall under the exception for testimonial dinners and like events (Regulation 18726.4.) because Mayor Muise was not the one being honored. It was her deceased husband who was being honored, and it was she who initially planned to provide for the event. This is different from a testimonial event where she is the honoree and others attend (normally for a price to defray the cost). The situation is analogous to one where the daughter of an official is getting married and someone offers to cater the wedding reception, thereby relieving the official of the obligation. The gift would be to the official.

Pursuant to Regulation 18726.1(b), the gift may be reimbursed within 30 days of receipt. More than 30 days has passed since receipt. However, you originally contacted this office by phone on July 9, within 30 days of receipt, seeking advice on this question on behalf of Mayor Muise.

Initially, my telephone advice was that it was possible that the Gutierrez Opinion, 3 FPPC Opinions 44 (No. 76-081, June 7, 1977), and the provisions of Regulation 18726.4 regarding testimonial dinners might be applicable. However, it was agreed that you should obtain more facts and seek our written advice. It has taken some time to fully

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<sup>2/</sup> Had the gift been merely a catered dinner for the family, the value of the gift would be apportioned among the attending family members. However, the gift was really the catered reception provided to others in lieu of the family arranging the reception and was, therefore, indivisible.

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reconstruct the facts and the delays have not been created by Mayor Muise. Consequently, although the 30-day refund period provided for in Regulation 18726.1(b) has long since expired, we believe that in this particular instance, the equitable thing to do is to allow an additional time period for repayment should Mayor Muise wish to make repayment to the donors or to the agent, Howard Homan. Consequently, Mayor Muise may make such repayment within 15 days of receipt of this letter by you.

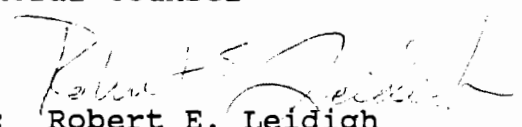
Assuming that Mayor Muise elects to not reimburse the cost of the gift herself, the value must be disclosed. Mr. Homan should be reported as the intermediary/agent for the donors for the full amount. The individual donors should be reported according to their actual share, if that amount exceeds \$50. (See, Regulation 18726.6.)

For Mr. Homan and for any donor of \$250 or more, Mayor Muise's disqualification will be required if a decision will have a reasonably foreseeable material financial effect upon Mr. Homan or the donor.<sup>3/</sup> (Section 87103.) The 12-month disqualification period will run from the date of the gift (June 20, 1986).

Should you have questions regarding the foregoing, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Counsel, Legal Division

DMG:REL:plh

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<sup>3/</sup> As to Mr. Homan, Mayor Muise's disqualification will be required for decisions affecting his wages or benefits, promotions, disciplinary actions, etc. (Regulation 18702.1.) For the caterer, Mayor Muise's disqualification will be required for any contract modifications, etc. (Regulation 18702.1.) For other donors, consult Regulations 18702(a), 18702.1, and 18702.2.

RICHARD RICHARDS  
GLENN R. WATSON  
ROBERT G. BEVERLY  
HARRY L. GERSHON  
DOUGLAS W. ARGUE  
MARK L. LAMKEN  
ARNOLD SIMON  
LEE T. PATERSON  
RICHARD H. DINEL  
ERWIN E. ADLER  
DAROLD D. PIEPER  
FRED A. FENSTER  
ALLEN E. RENNETT  
STEVEN L. DORSEY  
WILLIAM L. STRAUSS  
ROBERT M. GOLDFRIED  
ANTHONY B. DREWRY  
MITCHELL E. ABBOTT  
TIMOTHY L. NEUFELD  
STEVEN A. BROILES  
GREGORY W. STEPANICICH  
ROCHELLE BROWNE  
DONALD STERN  
MICHAEL JENKINS  
WILLIAM B. RUDELL  
DAVID L. COHEN  
TERESA R. TRACY  
QUINN M. BARROW  
COLEMAN J. WALSH, JR.  
CAROL W. LYNCH  
JOHN A. BELCHER  
SUSAN R. SCHWARTZ  
JEFFREY A. RABIN  
MARSHA JONES MOUTRIE  
CRISTINA L. SIERRA  
MICHELE BEAL BAGNERIS  
MICHAEL B. TANNATT  
ROBERT G. SOPER  
GINA M. DE GENNARO

RICHARDS, WATSON & GERSHON  
ATTORNEYS AT LAW  
A PROFESSIONAL CORPORATION

F P P C  
OCT 27 8 25 AM '86  
FIFTH FLOOR  
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(213) 626-8484

CABLE ADDRESS  
RICHWAT  
TELECOPIER (213) 626-0078

OF COUNSEL  
JAMES K. HERBERT  
PATRICK C. COUGHLAN

October 24, 1986

Mr. Robert Leidigh  
Counsel  
Legal Divison  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95804


Re: Mayor Muise

Dear Mr. Leidigh:

Pursuant to our recent telephone conversations, I have obtained and am transmitting to you letters Howard Homan sent to Western Waste Industries, Watson Land Company and Jay's Catering concerning the reception held in honor of Mayor Muise's husband. I have also verified with Howard Homan that he personally originated the idea of holding a reception.

Please contact me if you have any further questions.

Very truly yours,

  
Steven L. Dorsey

SLD:cb  
Enclosures

cc: Mayor Sylvia Muise

SLD48-13A

July 1, 1986

Mr. Bill Goedike  
Western Waste  
1025 W. 190th Street  
Suite 325  
Cardena, California 90248

Dear Bill:

I would like to extend my appreciation for Western Waste's participation in making the gathering of friends at Mayor Muise's home after the services for Leonard Muise an outstanding success. I am confident that the family was pleased by your participation. In order to clean up all the remaining details, I would appreciate it if you would have a check prepared in the amount of \$767.57 payable to Jay's Catering on behalf of the Leonard Muise Memorial Services Tribute.

Sincerely,

HOWARD B. HOMAN, Director  
Parks and Recreation Department

HBH:leh  
cc: Mayor Muise

July 1, 1986

Mr. Mike Elliott  
Watson Land Company  
22010 S. Wilmington Avenue  
Carson, California 90746

Dear Mike:

I would like to extend my appreciation for Watson Land Company's participation in making the gathering of friends at Mayor Muise's home after the services for Leonard Muise an outstanding success. I am confident that the family was pleased by your participation. In order to clean up all the remaining details, I would appreciate it if you would have a check prepared in the amount of \$767.56 payable to Jay's Catering on behalf of the Leonard Muise Memorial Services Tribute.

Sincerely,

HOWARD B. HOMAN, Director  
Parks and Recreation Department

HBH:leh  
cc: Mayor Muise



July 1, 1986

Mr. Jay Mastrolanni  
Jay's Catering  
12224 Brookhurst Street  
Garden Grove, California 92640

Dear Jay:

I would like to extend my appreciation for your participation in making the gathering of friends at Mayor Mulse's home after the services for Leonard Mulse an outstanding success. Your generous contribution of \$653.89 toward providing the food at the home of Mayor Mulse is greatly appreciated and I am sure that the extra thought of having one of Leonard Mulse's favorites--broiled salmon--was an added treat. I felt that the decorations and the display of the food was just outstanding and in keeping with the high standards that Jay's Catering has been known for.

Once again, thank you for participating in this solemn event.

Sincerely,

HOWARD B. HOMAN, Director  
Parks and Recreation Department

HBH:leh  
cc: Mayor Mulse

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SEP 24 9 08 PM '86

September 19, 1986

Mr. Robert Leidigh  
Counsel  
Legal Division  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95804

Re: Mayor Muise

Dear Mr. Leidigh:

Pursuant to your letter of August 21, 1986, you have requested supplemental information concerning the post-memorial service reception held in honor of Mayor Muise's husband. This letter will answer your questions and provide additional relevant information.

Your first question concerned the extent of Mayor Muise's involvement in deciding what to serve, who would attend, the arrangements for seating and similar matters. From what I have been able to determine in talking with Mr. Homan, Mayor Muise, and Linda Barragan, the representative of Mastrioni Family Enterprises in charge of the reception, there was no line of authority and no individual was in charge of making arrangements.

The decision on seating appears to have been made by Mr. Homan. Mr. Homan, the caterer, and Mayor Muise's niece all had a part in determining the menu. Most of the decisions on the food selections were made by the caterer and Mr. Homan. Mayor Muise's involvement with the food selection for the reception was limited to answering a casual question concerning whether the Mayor's husband enjoyed a particular food. She indicated that he did and the item was served, but the Mayor never requested nor approved its inclusion.

Mr. Robert Leidigh  
September 19, 1986  
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No individual determined who would be invited to the reception. An announcement was made at the conclusion of the memorial service that the family home would be open and that the Mayor and her family would receive friends. This, of course, is standard protocol, and the same announcement would have been made had a pot luck reception been arranged.

In answer to your second question, Linda Barragan informed me Mastrioni offered to discount its usual fees by 35%. The Company expected that the total cost of the reception would run approximately \$700 - \$1,000.00. The total anticipated discount would, therefore, have been approximately \$250 - 350.00. The greater cost was due primarily to the increase in the estimated number of attendees.

Since my last memorandum, I have learned that Mr. Homan solicited various companies to contribute to the reception. Mr. Homan initiated the idea of a sponsored reception, and the decisions to request contributions and which companies to approach were entirely his. The Mayor did not know which companies were paying for the reception until receiving the memo from Mr. Homan that precipitated this request for written advice.

I have been informed by Mr. William Goedike, Vice President for Administration of Western Waste Industries, and Mr. Michael Elliott, Vice President for Governmental and Civic Affairs of Watson Land Company, that Mr. Homan told them the maximum amount they would be expected to contribute would be \$200.00. Mr. Goedike and Mr. Elliott have told me that they agreed to pay a sum in this range in lieu of providing flowers or a contribution in Mr. Muise's name to the the Dr. Paul Terasaki U.C.L.A. Cancer Research Fund. Mr. Goedike and Mr. Keith told me they never would have agreed to pay the sum ultimately billed by Mr. Homan and do not intend to pay more than the agreed-upon amount.

In answer to your final question, the companies that might be expected at this time to contribute are Western Waste Industries, Watson Land Company, Mastrioni family Enterprises, and Shell Oil Company. The latter company offered to pay after learning of the reception.

Mr. Robert Leidigh  
September 19, 1986  
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Please contact me if I can be of further assistance. My office address and telephone number are: 333 South Hope Street, 38th Floor, Los Angeles, California 90071, (213) 626-8484

Very truly yours,

Steven L. Dorsey

SLD:cb  
cc: Mayor Sylvia Muise

sld47-3a



# California Fair Political Practices Commission

August 21, 1986

Steven L. Dorsey  
Assistant City Attorney  
City of Carson  
P.O. Box 6234  
Carson, CA 90749

Re: Your Request for Advice  
Regarding Mayor Sylvia Muise  
Our File No. A-86-248

Dear Mr. Dorsey:

I enclose a copy of a newspaper article which was recently brought to our attention. In light of the article, I would request further clarification of the precise facts involving the origination of the idea for the funeral reception and the decisions regarding the nature of the food and services provided. Specifically, what was Mayor Muise's involvement in deciding what to serve, who would attend, whether it would be the arrangements for sitting, standing, etc.? What was the understanding of Mastroianni as to reimbursements to be obtained and who are the contemplated contributors if reimbursements are obtained?

Your prompt response will facilitate our analysis of the questions which you have posed.

Sincerely,

*Robert E. Leidigh (Ked)*  
Robert E. Leidigh  
Counsel  
Legal Division

REL:plh  
Enclosure

F P P L  
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July 29, 1986

Mr. Robert E. Leidigh  
Counsel  
Legal Division  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95804

Re: Mayor Muise

Dear Leidigh:

Thank you for responding so quickly to my recent call concerning the reception held in honor of Mayor Muise's husband. As a result of that conversation, Mayor Muise has asked that I send you this letter requesting written advice concerning whether the reception constituted a gift to her under the Political Reform Act of 1974.

As I indicated to you, Mayor Muise's husband recently died following a long illness. After learning of Mr. Muise's death, the Director of Parks and Recreation called the Mayor's niece, who was coordinating the memorial service, to ask if there was anything he could do to assist the family.

During the conversation the Director learned that the Mayor's niece was organizing a reception to be held at the family home following the memorial service. The plans were for a traditional reception to which family, friends, and neighbors would bring all the refreshments. As is customary, the Muise family would provide the paper goods.

The Director of Parks and Recreation, upon learning of these plans, offered to coordinate a reception to be sponsored by local business interests, including a catering company, that had called him offering to help the family. The Mayor's niece agreed, and the Director coordinated the reception.

The cost of the reception was approximately \$2200.00. The Mayor was advised of the cost and participation of the local businesses on July 3, 1986. It was on that occasion that she became aware of possible conflict of interest implications of the event, which prompted my telephone call to you.

To date the catering company has absorbed the total cost of the reception. The other two participants have deferred donations until a determination is made on whether these donations would constitute a gift to the Mayor. If so, they may not participate, or may request that other interests agree to cosponsor in order to bring the amount of their individual expenditures below \$250.00.

During our telephone discussion you indicated this situation was similar to the regulation codified as 2 CAL.Adm.Code 18726A providing that testimonial dinners honoring public officials constitute gifts to the public official only to the extent of the value of the meal and tangible articles received by the official. You further indicated that the rationale of this regulation would not apply to the current situation if the local interests had paid for memorial expenses or other costs that would otherwise have been incurred by the Mayor.

In the present circumstances, the Mayor would have held a reception at her home even if the companies had not offered to pay for one. The reception would have been a traditional "pot luck" get together and the cost to the Mayor would, at most, have been minimal.

Please do not hesitate to call me or Mayor Muise if you have any questions.

Very truly yours,

Steven L. Dorsey  
Assistant City Attorney

SLD:cb  
cc: Mayor Muise

sld-46-2a

# Solicitation for Muise Funeral Reception Under FPPC Scrutiny

By GEORGE STEIN, *Times Staff Writer*

**CARSON**—Two firms with city contracts and one of the city's biggest landowners were asked by a ranking city official to help pay for a \$2,200 reception following the funeral for the husband of Mayor Sylvia Muise.

At the request of the city attorney's office, the state Fair Political Practices Commission is examining the circumstances to determine whether a contribution to the reception could be considered a gift to the mayor.

If so, the state law on conflicts of interest would bar the mayor from voting on major issues that affect the donors, according to FPPC spokeswoman Lynn Montgomery.

Howard Homan, the city's director of parks and recreation, acknowledged in an interview that he had asked for contributions from the city's caterer, Mastroianni Family Services; the city's trash hauler, Western Waste Industries, and Watson Land Co.

In addition, Len Kosonen, plant manager of the giant Atlantic Richfield refinery in Carson, said that Arco had been asked to help defray the reception expenses by Michael Elliott, Watson Land vice president.

Kosonen and Elliott said they are frequently asked to contribute to civic organizations but could not recall being solicited for anything similar to the reception.

Muise said she did not ask city employees to raise funds for the reception and was unaware until two weeks after the reception that any solicitations had been made on her behalf.

While waiting for an opinion from the FPPC, none of the firms has made any payments for the reception.

"Someone is going to pay," said Jay Mastroianni, owner of the firm that catered the reception. "I'm sure as hell not going to pay her funeral expenses. I certainly didn't agree to do it for nothing."

Mastroianni said he contributed by giving Muise a break on the price. "Howard (Homan) was just trying to get a good price. That was my contribution," he said.

At the June 20 reception at Muise's house, four waiters from his company served 150 guests poached salmon, broccoli souffle, beef in a sauce, salads and pastries.

Mastroianni Family Services caters all



Los Angeles Times

Carson Mayor Sylvia Muise

events held at the city's community center, which is under Homan's supervision, and the firm grossed close to \$1 million on its city contract in the 12 months ending June 30.

In 1983, when Mastroianni was awarded a five-year contract, Homan was one of the city employees who evaluated the bids, and the mayor was the council member who made the motion to award the contract to the firm.

The other three companies involved also have major business interests with the city.

On July 21, Western Waste Industries asked the council for an unscheduled 25% rate increase for trash collection. Muise made a motion to approve, which passed 3 to 1.

Watson Land pays close attention to Carson government action. Elliott, Watson's vice president for governmental relations, regularly attends council meetings from beginning to end, and, at another recent meeting, he expressed concern that a city annexation plan could add to the cost of a Watson project.

Arco, whose Carson refinery is valued at

Please see FUNERAL, Page 5

LA  
Times  
Aug. 14,  
1986  
P B-1  
(South  
Bay  
ed.)



# RECEPTION: Firms Asked to Contribute

Continued from Page 1

\$400 million, also has a project before the city. It is seeking a conditional-use permit to build two 450,000-barrel storage tanks for crude oil on property near Wilmington Avenue and Lomita Boulevard.

Homan said he got involved in helping with the reception shortly after June 13, when 49-year-old Leonard Muise, a TRW design engineer, died of cancer.

Homan said he went to the mayor's house and met with the mayor's niece, Sue Kinnane, to talk about the reception, and at that time offered to solicit local businesses to pay for it. He said that the mayor was in the house but that she was not paying much attention to the conversation.

Until Homan made his offer, Muise had been planning "a traditional potluck get-together," according to the letter sent to the FPPC by the city attorney's office. Muise would supply napkins and paper plates; friends and relatives would bring dishes of food, the letter said.

Homan contended that the cost for the reception at the mayor's house "was not her bill to pay. . . . This is something I took upon myself to show respect for Leonard."

He said he had "no ulterior motives" in seeking funds for the reception from local firms with business before the city.

"That is not so unusual. These people are part of the city family. . . . These people had a genuine interest in showing respect for Leonard Muise," he said. "We all felt Leonard Muise was a super guy."

Although Mastroianni said he considered Homan "the guy I have to please over there" at City Hall, he said he did not think that he was being pressured to contribute in order to maintain good relations.

Elliott also said he did not feel

that Watson Land's relations with the city depended on making a contribution to the reception.

"Here the top elected official in the community loses her spouse, and in that moment of grief we think it is appropriate that we are asked to assist," he said.

Muise learned of the \$2,200 cost and the solicitations on July 3, two weeks after the reception, and only then did she become "aware of possible conflict-of-interest implications of the event," according to the letter written to the FPPC.

"I did not ask it," Muise said in an interview, referring to the solicitations. "I have no knowledge [of it] and I still have no knowledge."

In the letter, which was written July 29, Assistant City Atty. Steven Dorsey said: "To date, the catering company has absorbed the total cost of the reception. [Western Waste and Watson Land] have deferred donations until a determination is made on whether these donations would constitute a gift to the mayor. If so, they may not participate or request that other interests agree to co-sponsor in order to bring the amount of their individual expenditures below \$250."

Gifts of \$250 or more trigger the state law on conflicts of interest that would bar the mayor from voting on major issues affecting the donors.

Arco's Kosonen said his firm is also unsure about contributing because of the gift issue.

Homan said he is upset that questions were raised about the propriety of his actions and that the catering service had not been paid.

"I'm going to make sure they get paid through contributions of people in the city, or I will pay it myself," he said. "Someone has taken good intentions and turned it around into something political."

FPPC spokeswoman Montgomery said the commission staff will issue an opinion on the matter soon.